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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)		
	10/655,326	WALDREP, TROY S.		
Office Action Summary	Examiner	Art Unit		
	J. Derek Rutten	2192		
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the c	orrespondence address		
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING D.  - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period of Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).		
Status				
Responsive to communication(s) filed on <u>28 D</u> This action is <b>FINAL</b> . 2b) ☑ This     Since this application is in condition for alloware closed in accordance with the practice under E	action is non-final. nce except for formal matters, pro			
Disposition of Claims				
4)	wn from consideration. 6, 37, 39, and 42 is/are rejected.	plication.		
Application Papers				
9) The specification is objected to by the Examine 10) The drawing(s) filed on is/are: a) acc Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Example 11.	epted or b) objected to by the I drawing(s) be held in abeyance. See tion is required if the drawing(s) is obj	e 37 CFR 1.85(a). lected to. See 37 CFR 1.121(d).		
Priority under 35 U.S.C. § 119				
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of:</li> <li>1. Certified copies of the priority documents have been received.</li> <li>2. Certified copies of the priority documents have been received in Application No.</li> <li>3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> </ul>				
Attachment(s)  1) Notice of References Cited (PTO-892)  2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  3) Information Disclosure Statement(s) (PTO/SB/08)  Paper No(s)/Mail Date	4)  Interview Summary Paper No(s)/Mail Da 5)  Notice of Informal F 6)  Other:	ate		

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#### **DETAILED ACTION**

1. This action is in response to Applicant's submission filed 12/28/07, responding to the 7/31/07 Office action which detailed the rejection of claims 1-27, 29-37, and 39-44. Claims 1, 11, 16-21, 25, 34, 36, and 42 have been amended, and claims 5, 8-10, 12, 22-24, 27, 29-31, 33, 35, 40, 41, 43, and 44 have been canceled. Claims 1-4, 6, 7, 11, 13-21, 25, 26, 32, 34, 36, 37, 39, and 42 remain pending in the application and have been fully considered by the examiner.

### Response to Amendments/Arguments

- 2. Applicant's 12/28/07 amendment to claims 16-21 do not provide statutory subject matter since the claims are now directed to descriptive material per se. Therefore, the rejection under 35 U.S.C. § 101 is maintained. See the rejection below for further details.
- 3. Applicant's arguments filed 12/28/07 have been fully considered but they are not persuasive.

On page 8, Applicant essentially argues that the prior art of record, Kelley, does not teach "adaptive navigation" as described on page 13 of the originally filed specification. It is noted that the features upon which applicant relies (i.e., the features from page 13 of the specification) are not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Reasonable broad interpretation of the plain language of the claims permits the prior art to read on the limitation. Therefore, Applicant's argument is not persuasive.

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On page 9, Applicant essentially argues that the prior art of record, Kelley, does not teach loading and executing extracted scripted content. In the arguments, Applicant points to Kelley column 4 lines 1-9, column 6 lines 1-8, and column 7 lines 16-25, to support the argument that JavaScript is used to build or generate an output screen. Applicant argues that this is "in marked contrast" to the claims. This argument is not persuasive. As Applicant points out, Kelley column 7 lines 16-25 discloses using JavaScript to "generate the output screen." In order for the output screen to be generated, the JavaScript must be loaded and executed. As described in newly cited prior art "JavaScript: The Definitive Guide" by Flanagan, JavaScript is executable script that is embedded in web pages (see section 1.5). When encountered by a JavaScript compatible interpreter, which are usually found in web browsers such as Microsoft Internet Explorer, and Mozilla Firefox, the code is executed and the output screen corresponding to the JavaScript embedded web page is generated. The only way to "generate the output screen," as argued by Applicant and disclosed by Kelley, is to load and execute the code. Therefore, Applicant's argument is not persuasive.

Further arguments on pages 9 and 10 of Applicant's remarks are based upon arguments as addressed above, and are not persuasive for the same reasons.

### Claim Rejections - 35 USC § 101

#### 4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

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5. Claims 16-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." In this context, "functional descriptive material" consists of data structures and computer programs which impart functionality when employed as a computer component. "Nonfunctional descriptive material" includes but is not limited to music, literary works, and a *compilation or mere arrangement of data*. When nonfunctional descriptive material is recorded on some computer-readable medium, in a computer or on an electromagnetic carrier signal, it is not statutory since no requisite functionality is present to satisfy the practical application requirement. Merely claiming nonfunctional descriptive material, i.e., abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory.

Claims 16-20 are directed to a "Software Development Kit (SDK)" comprising "coding directives." The SDK does not appear to be functional descriptive material since it merely comprises "coding directives" which do not impart functionality in and of themselves, when employed as a computer component. That is, the claims are directed to such directives that are "utilizable" by a developer who must provide the functionality. As such, even if the SDK as currently claimed, were embodied in computer-readable media, it would still not be statutory since it is merely directed to nonfunctional descriptive material.

Claim 21 is rejected for the same reasons as those presented above in the rejection of claims 16-20.

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# Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6 and 7 are claimed as being dependent upon now cancelled claim 5. Since claim 5 no longer exists, these claims will be interpreted as being dependent upon independent claim 1.

# Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 9. Claims 1-3, 6-7, 13, 14, 16, 20, 25, 26, 32, 34, 36, 39, and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,209,007 to Kelley et al. (hereinafter "Kelley").

In regard to claim 1, Kelley discloses:

A storage medium comprising a Software Development Kit (SDK) having program components which are executable through a common application program

in...media." Note that this corresponds with the description of an SDK on page 10 lines 5-7 of the originally filed specification. Also note that Kelley discloses generating a display from JavaScript code. An application program interface is required in order to call and execute JavaScript code as required by the JavaScript language specification.

wherein the program components comprise:

a first program component having coding directives which are utilizable by a developer to write programming instructions that are executable by a processor for adaptively navigating through one or more websites; See Fig. 3, element 102, e.g. "Identify Levels." Also see column 6 lines 46-48:

When a web page presents another web page when an item is selected from the first web page, this represents one level in the web page hierarchy.

Also See column 6 lines 32-35:

Present an input form to the user where can identify the items to be searched that will appear on the new web page subset. The user is able to specify a complete Boolean search that will search all lines in the HTML source file and return those lines in a temporary file for examination by the user.

Note that the user, (i.e. developer) writes instructions which are presented against the coding directives inherently present in Kelley's system. If there were no components with "coding directives," the system would be unable to interpret or execute the user's instructions.

and

one or more additional program components having coding directives which are utilizable by a developer to write programming instructions that are executable by a processor for: extracting scripted content from the one or more websites including

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Javascript Code." As noted above, "coding directives" are inherently present in order for the user directed extraction to occur. As noted by Applicant (see 12/28/07 page 9), Kelley column 4 lines 1-9, column 6 lines 1-8, and column 7 lines 16-25, disclose using JavaScript to build or generate an output screen. In order to generate such an output screen, the JavaScript must be loaded and executed.

and storing the extracted scripted content at a target location. See column 6 lines 63-64, e.g. "Store the new web page."

In regard to claim 2, the above rejection of claim 1 is incorporated. Kelley further discloses: wherein the coding directives of the first program component are utilizable by a developer to write program instructions that are executable by a processor for conditionally navigating through the one or more websites. See column 6 lines 32-35, e.g. "Boolean search."

In regard to claim 3, the above rejection of claim 1 is incorporated. Kelley further discloses: wherein the coding directives of the first program component are utilizable by a developer to write program instructions executable by a processor for facilitating navigation through the one or more websites. See column 6 lines 44-48, e.g. "Identify the levels."

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In regard to claim 6, the above rejection of claim 1 is incorporated. Kelley further discloses: wherein the coding directives of the one or more additional program components are further utilizable by a developer to write program instructions that are executable by a processor for standardizing the scripted and unscripted content. See column 6 lines 32-35, e.g. "return those lines."

In regard to claim 7, the above rejection of claim 1 is incorporated. Kelley further discloses: wherein the coding directives of the one or more additional program components are further utilizable by a developer to write program instructions that are executable by a processor for generating a model of logical structure of the scripted and unscripted content. See Fig. 2, e.g. "Customized Web Page."

In regard to claim 13, the above rejection of claim 1 is incorporated. Kelley further discloses: wherein the coding directives of the first program component are utilizable by a developer to write program instructions that are executable by a processor for accessing data other than what may be configured to be displayed on a browser as characterized by a structural layout of an accessed website. See column 4 lines 2-7, e.g. "javascript."

In regard to claim 14, the above rejection of claim 1 is incorporated. Kelley further discloses: the coding directives of the one or more program components are further utilizable by a developer to write program instructions that are executable by a

processor for posting data on the one or more websites. See column 6 lines 63-64, e.g. "Store the new web page."

In regard to claim 16, Kelley discloses:

A Software Development Kit (SDK) See column 4 lines 58-65, e.g. "program or software...may be stored in...media." Note that this corresponds with the description of an SDK on page 10 lines 5-7 of the originally filed specification.

comprising computer readable coding directives which are utilizable by a developer for writing program instructions that are executable by a processor with which to standardize content on a web page. See column 6 lines 32-35:

The user is able to specify a complete Boolean search that will search all lines in the HTML source file and return those lines in a temporary file for examination by the user.

Boolean directives are utilizable by a developer to produce a file according to the standards specified by the directives.

...wherein at least some of said content is scripted, and said scripted content is executed and partitioned. See Fig. 5, element 340, e.g. "Extract JavaScript Code." As noted above, "coding directives" are inherently present in order for the user directed extraction to occur. Further, as noted by Applicant (see 12/28/07 page 9), Kelley column 4 lines 1-9, column 6 lines 1-8, and column 7 lines 16-25, disclose using JavaScript to build or generate an output screen. In order to generate such an output screen, the JavaScript must be loaded and executed. Also see column 7 lines 19-21, e.g. "subset of JavaScript code." That is, Kelley partitions the scripted content to obtain only that which will match the search.

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In regard to claim 20, the above rejection of claim 16 is incorporated. Kelley further discloses: further comprising another set of program instructions utilizable by the developer for writing program instructions that are executable by a processor with which to automatically navigate through the web page. See column 6 lines 32-35.

In regard to claim 25, Kelley discloses:

A Software Development Kit (SDK) comprising program instructions executable using a processor See column 4 lines 58-65, e.g. "program or software...may be stored in...media." Note that this corresponds with the description of an SDK on page 10 lines 5-7 of the originally filed specification.

for:

navigating through a website to access information; See Fig. 5 element 300.

parsing the accessed information into a model of logical structure; See column 6

line 54, e.g. "Identify source HTML tags." Note that this requires parsing in order to determine whether or not there is a tag. Further, HTML defines the model. Identification of tags proceeds to identify the HTML model.

loading and executing a scripting language embedded within the website such that information corresponding to the scripting language can be parsed into the model of logical structure; See Fig. 5, element 350, e.g. "Build New Code." Also column 7 lines 23-25. Note that javascript is "executed" such that new code is built, parsed, and searched. Further, as noted by Applicant (see 12/28/07 page 9), Kelley column 4 lines 1-

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9, column 6 lines 1-8, and column 7 lines 16-25, disclose using JavaScript to build or generate an output screen. In order to generate such an output screen, the JavaScript must be loaded and executed. Also see column 7 lines 19-21, e.g. "subset of JavaScript code." That is, Kelley partitions the scripted content to obtain only that which will match the search.

searching for content within the model of logical structure. See column 7 lines 49-52, e.g. "search."

extracting, independent of user intervention, the searched content from the one or more websites; and See column 6 line 59, e.g. "results." Note that the presence of results indicates the occurrence of extraction.

storing, independent of user intervention, the extracted content at a target location. See column 6 lines 63-64, e.g. "Store the new web page."

In regard to claim 26, the above rejection of claim 25 is incorporated. Kelley further discloses: wherein the program instructions are further for accessing the website without a user interface. See Fig. 3 and column 6 lines 49-52. Website is accessed, searched, and results saved without depending upon a user interface.

In regard to claim 32, the above rejection of claim 25 is incorporated. Kelley further discloses: wherein the program instructions are further for posting data upon the website. See Fig. 2. Note that display of the customized web page by web browser 30

requires the data to be "posted" on a website, otherwise the browser would not be able to access the data.

In regard to claim 34, the above rejection of claim 25 is incorporated. Kelley further discloses: wherein the program instructions are for monitoring the status of the accessed information on the website, and for sending an alert upon detecting a change in the status of the accessed information. See column 4 lines 19-23, also column 9 lines 30-31.

In regard to claim 36, Kelley discloses:

A computer-implemented method of using a Software Development Kit (SDK) for obtaining a collection of information from one or more websites. See Figs. 3-8, also see column 4 lines 58-65, e.g. "program or software...may be stored in...media." Note that this corresponds with the description of an SDK on page 10 lines 5-7 of the originally filed specification.,

comprising:

accessing the one or more websites; see column 6 lines 44-48, e.g. "web page hierarchy."

partitioning contents on the one or more websites into a model of logical structure; see column 6 lines 30-32, e.g. "identify the items to be searched."

loading and executing a script embedded within the one or more websites such that information corresponding to the script can be parsed into the model of logical

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structure; See column 5 lines 2-6, "general text that are produced by Java code or other language code." Also see column 6 line 51, e.g. "JavaScript." Further, as noted by Applicant (see 12/28/07 page 9), Kelley column 4 lines 1-9, column 6 lines 1-8, and column 7 lines 16-25, disclose using JavaScript to build or generate an output screen. In order to generate such an output screen, the JavaScript must be loaded and executed. Also see column 7 lines 19-21, e.g. "subset of JavaScript code." That is, Kelley partitions the scripted content to obtain only that which will match the search.

querying the model of logical structure for information of interest; see column 6 lines 49-52, e.g. "search"

automatically extracting, independent of user intervention, the information of interest from the one or more websites; and automatically storing, independent of user intervention, the extracted information of interest to a target location. See column 6 lines 63-64, e.g. "Store the new web page."

In regard to claim 39, the above rejection of claim 36 is incorporated. Kelly further discloses: *posting data upon a website in response to the step of extracting the information of interest from the one or more websites.* See Fig. 2. The customized web page is extracted from multiple sources, posted, and then accessed by web browser 30.

In regard to claim 42, the above rejection of claim 36 is incorporated. Kelley further discloses: *monitoring the status of the contents on the one or more websites, and further comprising the steps of partitioning, querving, automatically extracting, and* 

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automatically storing upon detecting a change in the status of the contents on the one or more websites. See column 4 lines 19-23, column 6 lines 63-64, and column 9 lines 4-5 and 30-31.

10. Claim 21 is rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent Application Publication No. 2002/0143821 by Jakubowski (hereinafter "Jakubowski").

In regard to claim 21, Jakubowski discloses:

A Software Development Kit (SDK) See page 7 paragraph [0049], e.g. "memory." Note that this corresponds with the description of an SDK on page 10 lines 5-7 of the originally filed specification.

comprising a first set of coding directives utilizable by a developer to write programming instructions that are executable by a processor which reference XPath query language.

See page 2 paragraph [0023], e.g. "XPath."

## Claim Rejections - 35 USC § 103

- 11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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12. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelley as applied to claim 3 above, and further in view of U.S. Patent Application Publication US 2004/0143567 A1 by Gross et al. (hereinafter "Gross").

In regard to claim 4, the above rejection of claim 3 is incorporated. Kelley further discloses: wherein the coding directives of the first program component are utilizable by the developer to selectively write the program instructions associated with facilitated navigation See column 6 lines 44-48, e.g. "Identify the levels." Kelley does not expressly disclose: for specific timeframes. However, Gross teaches that specific timeframes regarding webpages may be searched. See paragraph [0013], e.g. "date.". It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Gross' teaching of searching with Kelley's navigation in order to provide efficient searching as suggested by Gross (see paragraph [0030]).

13. Claims 11, 15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelley as applied to claims 1 and 16 above, and further in view of U.S. Patent No. 7,047,318 to Svedloff (hereinafter "Svedloff").

In regard to claim 11, the above rejection of claim 10 is incorporated. Kelley further discloses: wherein the coding directives of the first program component are further utilizable by a developer to write program instructions that are executable by a processor for: recognizing a scripting language embedded within the one or more

websites; See Fig. 5, element 360. Kelley does not expressly disclose: executing the embedded scripting language using said means. However, Svedloff teaches executing a scripting language. See column 3 lines 20-21. It would have been obvious to one of ordinary skill at the time the invention was made, to use Svedloff's teaching of execution with Kelley's scripting language in order to manipulate requested content (see Svedloff column 3 lines 24-29).

In regard to claim 15, the above rejection of claim 1 is incorporated. Kelley does not expressly disclose: wherein the coding directives of the first program component and the one or more additional program components are utilizable by a developer to write event driven program instructions. However, Svedloff teaches using Java Server Pages for interactive web pages. See column 2 lines 21-23. It would have been obvious to one of ordinary skill at the time the invention was made, to use Svedloff's teaching of Java Server Pages with Kelley's components in order to provide interactive services.

In regard to claim 19, the above rejection of claim 16 is incorporated. All further limitations have been addressed by the above rejection of claim 8.

14. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelley as applied to claim 1 above, and further in view of prior art of record "Effective Web data extraction with standard XML technologies" by Myllymaki (hereinafter "Myllymaki").

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In regard to claim 17, the above rejection of claim 16 is incorporated. Kelley further discloses: wherein the coding directives are utilizable by the developer for writing program instructions that are executable by a processor with which to convert web content of non- standardized format on the web page. See column 6 lines 32-35, e.g. "return those lines." Kelley does not expressly disclose: into extensible markup language format. However, Myllymaki teaches conversion to XML. See section 3.2 on page 638. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Myllymaki's XML conversion with Kelley's web content in order to help in subsequent data extraction as suggested by Myllymaki.

15. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelley as applied to claim 16 above, and further in view of U.S. Patent No. 6,681,217 to Lewak (hereinafter "Lewak").

In regard to claim 18, the above rejection of claim 16 is incorporated. Kelley teaches using a Boolean search to search for content (see Kelley column 6 lines 32-35). Kelley does not expressly disclose: wherein the coding directives are utilizable by the developer for writing program instructions that are executable by a processor with which to standardize spaces within the web page content. However, Lewak teaches using a Boolean search with regular expressions to search for spaces (see column 8 lines 54-55. It would have been obvious to one of ordinary skill at the time the invention was made, to use Lewak's teaching of spaces with Kelley's Boolean search in order to provide powerful searching (see Lewak column 2 lines 34-36).

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16. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kelley as applied to claim 36 above, and further in view of Jakubowski.

In regard to claim 37, the above rejection of claim 36 is incorporated. Kelley does not expressly disclose: *standardizing the contents on the one or more websites into a standard format prior to the step of partitioning*. However, Jakubowski teaches standardizing the content. See paragraph [0023], e.g. "template." It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Jakubowski's teaching of templates with Kelley's search specification so a search may be customized according to the needs and limitations of a particular device and/or user (See Jakubowski paragraph [0008].

#### Conclusion

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES RUTTEN whose telephone number is (571)272-3703. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on (571)272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/J. Derek Rutten/ Patent Examiner, Art Unit 2192